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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,906	11/18/1999	SCOTT THOMAS MARCOTTE	EN999+121	6545

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EXAMINER

WILLETT, STEPHAN F

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/442,906

Applicant(s)

Marcotte

Examiner

Stephan Willett

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 4, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 9-11, 16, 17, 24-26, 31, 32, and 39-41 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9-11, 16, 17, 24-26, 31, 32, and 39-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other:

Art Unit: 2141

## **DETAILED ACTION**

### ***Title Change***

1. Pursuant to MEP. 606.01, the title should be changed to provide a complete and detailed description of the invention. The title is still too broad.

### ***Election/Restriction***

2. The applicant's arguments with regard to the restriction are not persuasive. There is a burden on the examiner when an additional class must be searched for additional matter claimed in a different subclass, thus the restriction is not withdrawn.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 16, 31 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, "irrespective of the server having knowledge of the request prior to receipt thereof" in the claims is not enabled in the specification, and it is a negative limitation simply to avoid pertinent art.

Art Unit: 2141

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 16, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in the background in view of Burnett et al. with Patent Number 6,006,018 and Cox et al. with Patent Number 5,539,757.

7. Regarding claim(s) 1, 16, 31, Burnett teaches transmitting data between a file system, col. 6, lines 34-36. Burnett teaches transmitting data between a file system, col. 4, lines 59-50. Burnett teaches transmitting data between a file system in client servers, col. 4, lines 65-66. Burnett teaches media files with pointers to a file list, col. 5, lines 61-64 Burnett teaches bypassing non-system file buffers, col. 4, lines 58-60, col. 7, lines 44-45, col. 9, lines 44-45 of which the server has no prior knowledge of the request. Burnett teaches the invention in the above claim(s) except for explicitly teaching bypassing non-file system buffers. In that Burnett operates to transfer data quickly the artisan would have looked to the transmission buffering arts for details of implementing buffer bypasses to transmit data. In that art, Cox, a related network data transmission device, teaches "a pointer is managed", col. 13, lines 5-6 in order to provide quick data throughput. Cox specifically teaches "only pointers to these buffers need to be exchanged", col. 12, lines 64-65. Further, Cox suggests "in order to avoid unnecessary data

Art Unit: 2141

moving”, col. 12, lines 61-62 will result from bypassing buffers. The motivation to incorporate less buffer delays insures that data throughput speed can be increased. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the buffer bypassing as taught in Cox into the transmission system described in the Burnett patent because Burnett operates with real time data transfers and Cox suggests that optimization can be obtained with file system data transfers. Therefore, by the above rationale, the above claim(s) are rejected.

8. Claims 1-2, 9-11, 16-17, 24-26, 31-32 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant’s admitted prior art in the background in view of Ledain et al. with Patent Number 6,021,408 and Hamilton et al. with Patent Number 5,799,150.

9. Regarding claim(s) 1, 16, 31, Applicant’s Background Art teaches transmitting data between a file system as “Distributed File Services (DFS) systems data is moved from one set of buffers within the server to another set of buffers within the server”, page 1, lines 14-17.

Applicant’s Background Art teaches the invention in the above claim(s) except for explicitly teaching bypassing non-file system buffers. Hamilton teaches transferring data in a network environment. Hamilton teaches media files with pointers to a file list, col. 6, lines 34-36, 39-42, 51-59 and col. 7, lines 6-13. Hamilton teaches transmitting data in a computer network, col. 9, lines 13-14. Hamilton teaches bypassing system buffers as “no system memory buffer copy ... this traditional method is bypassed ... by minimizing data copying”, col. 9, lines 59-67, and col. 10, lines 34-39, “to transfer the media data portion of the packet directly from the memory network interface into the main memory or other I/O device memory”, col. 10, lines 2-6.

Hamilton teaches no knowledge of the request as “a connection between the server and the client

Art Unit: 2141

has to be established before sending any data”, col. 4, lines 56-57 as of that time period.

Hamilton teaches the invention in the above claim(s) except for explicitly teaching bypassing non-file system buffers in a file system. In that Hamilton operates to transfer data quickly the artisan would have looked to the transmission buffering arts for details of implementing buffer bypasses to transmit data. In that art, Ledain, a related network data transmission device, teaches “a highly throughput optimized apparent filesystem”, col. 9, lines 33-34 in order to provide quick data throughput in a server, col. 8, lines 43-44, col. 2, lines 15-28. Ledain specifically teaches “file write data bypasses the main memory buffer cache and is written exclusively to the disk cache”, col. 3, lines 18-19 and col. 12, lines 38-44. Buffer bypassing in a file system data transfer is taught. Further, Ledain suggests “ a significant drawback of merely using a buffer cache”, col. 2, lines 12-13 will result from certain implementations. The motivation to incorporate less buffer delays insures that data throughput speed can be increased. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the buffer bypassing as taught in Ledain into the transmission system described in the Hamilton patent because Hamilton operates with real time data transfers and Ledain suggests that optimization can be obtained with file system data transfers. Therefore, by the above rationale, the above claim(s) are rejected.

10. Regarding claim(s) 2, 17, 32, Hamilton teaches passing said data to a storage medium, col. 5, lines 36-42 and Ledain teaches mass storage mediums interconnected with a file system, col. 8, lines 47-50

11. Regarding claim(s) 9, 24, 39, Hamilton teaches sending data to a receiver, col. 8, lines 1-

Art Unit: 2141

3.

12. Regarding claim(s) 10-11, 25-26, 40-41, Hamilton teaches a routine to provide pointers to said sent data, col. 8, lines 39-43 and col. 7, lines 51-52.

*Response to Amendment*

13. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

14. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

15. Applicant suggests Ledain teaches "circumventing the need for each client to use local disk space to hold copies of media files", Paper No. 6, Page 15, lines 8-9 and page 16, lines 10-11. Said disk space is a buffer as used therein as is memory cache. Similarly a client regularly acts as a server and/or both depending on the client's function at a particular point in time. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. For example, "not the portion of data transmission that includes sending over the wire", Paper No. 6, Page 17, line 7. The IDs in a Tracklist are pointers, col. 6, lines 34-36, 39-42 in Hamilton. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

Art Unit: 2141

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited. A close review of the references is suggested. The other references cited teach numerous other ways to perform buffer bypassing in varying contexts, thus a close review of them is suggested.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.



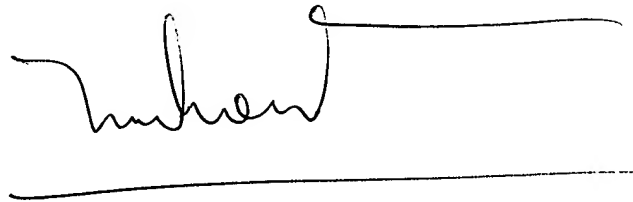
Art Unit: 2141

21. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

22. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605..

sfw

March 4, 2003

A handwritten signature in black ink, appearing to read 'Le Hien Luu', is written above a horizontal line.

LE HIEN LUU  
PRIMARY EXAMINER